

Borough of Tenafly

MAYOR AND COUNCIL

COMMITTEE OF THE WHOLE

MINUTES

THURSDAY, NOVEMBER 5, 2009

The meeting was called to order at 7:30 P.M. with the reading of the Open Public Meetings Act statement by Mayor Rustin.

Present: Mayor Peter S. Rustin

Council members: Mark Feldman, Nadia LaMastra, Michael Lattif,
Joseph McDermott, Patrick J. Rouse, Jon Warms

Interim Borough Administrator: Gregory Fehrenbach
Borough Attorney: William R. McClure, Esq.

Absent: None

Mayor Rustin read the following statement:

"Public Comments: A total of 15 minutes has been allocated for this purpose. Citizens are welcome to address the Mayor and Council on any governmental item of concern to them, whether or not it is scheduled on the agenda below. Citizens must give their names and addresses when recognized to speak. Large groups are urged to select someone to represent them. The public is advised that these meetings are recorded and are subject to the Open Public Records Act."

1. Martha Koven, 2 North Summit Street, Tenafly referenced an email she circulated to the governing body with a copy of Police Chief Michael Bruno's memo to the Transportation Committee dated September 11, 2008 and stated that he raised concerns that must be addressed by New Jersey Transit.
2. Johanne Gambrill, 15 Ravine Road, Tenafly asked, in referring to the November 16 meeting with New Jersey Transit, that residents be allowed to ask their own questions of New Jersey Transit and not through a moderator.

Council decided to address item 1-H first this evening.

1-H. Meeting with NJTransit on November 16

Borough Clerk reported that she was arranging a walk through of the venue with John Leon of NJ Transit for early next week. She is developing a program/agenda and a protocol for the conduct of the meeting. Council agreed that an independent moderator was needed and the Mayor will reach out to various contacts. He will contact David DiGregorio at the High School about video recording the meeting to run on Channel 77.

Ms. LaMastra is making arrangements with Rudy Di signs about installing new billboards to be placed over the Democratic campaign signs from the recent election to advertise the meeting. The Borough Clerk will speak with the Assistant Recreation Director about getting notice of the meeting posted on the electronic sign board and on the website with links to the recent newsletter article on passenger rail. The Interim Administrator will review the contract with Talley & Associates about the possibility of Mark Gordon attending the meeting and if this is covered in the contract. If not, he will contact Talley about the cost involved for Mark to attend.

1. **TO BE CONSIDERED**

- A. Decrease in revenues in Building Department/possible fee increases (deferred from 8/4 and 10/6 mtgs)

Mr. Warms asked that this be deferred for discussion in the new year. Mr. Fehrenbach stated that in early January, the CFO and the Construction Official will submit a report and then action will be scheduled.

- B. Council stance on Light Rail (from 9/15 mtg and 10/6)

Mr. Lattif suggested that until the DEIS is released, it is not known what NJ Transit is proposing for us to react to. It was agreed to schedule discussion for a resolution of the Council on Rail at the November 24 work session.

- C. Overnight Parking issue (from 9/15 mtg and 10/6)

It was the consensus of the Council to keep the ban on overnight parking. It was agreed to have the Police Commission discuss this issue in January and make their recommendations to the Council for consideration in February.

- D. Review Canvassing Ordinance (from 10/6)

Ordinance will be introduced on November 10 and the hearing will be on December 1.

- E. Revision to Fire Department Ordinance and officer approval (from 9/15 mtg & 10/6)

Administrator will write a letter to the Fire Department to remind them that they are required to have their officers approved and set a date for the public meeting. The ordinance will be modified to eliminate the residency requirement and address other items the Fire Department identifies as needing revision, including requirement that house numbers be legible. Administrator will contact the Department that the Council will consider the changes and give a deadline for their input to be returned to the Council.

- F. Sign Ordinance revisions (WRM) (from 10/6)

Borough Attorney discussed campaign signs on public property and advised all about First Amendment rights to free speech. He will remove language contained in the ordinance to avoid any liability. He also advised to be consistent in our allowances. All agreed to one message per organization per location. Following his revisions, the ordinance will be referred to the Sign Committee for their review before coming to the Council for final action.

- G. Proposal for traffic engineering services/Riveredge Road & Tenaflly Road

Funding for this is in Ordinance No. 00-06; permission was granted to move forward on this project.

H. Meeting with NJTransit on November 16
Discussed earlier this evening.

I. Planning Board-Growth Share Ordinance
Planning Board chair Mary Beth Wilmit will attend the November 24 work session to discuss this Ordinance.

J. Planning Board-Proposed Revisions to the LDR (cover sheet only)
It was reported that comments on these proposed revisions will be submitted by the Board of Adjustment. Clerk is to schedule discuss on a work session agenda early next year when the Board of Adjustment has submitted their suggested revisions and comments.

K. CFO and Administrator Search update
Council agreed to proposal submitted by Mr. Fehrenbach, who will conduct search for both Administrator and Chief Financial Officer. He anticipates it will take four to five months to find Administrator with right chemistry for the governing body and the community. Chief Financial Officer position requires more of a technical skill and he advised he would do that on an hourly basis, and estimated it would take between 15 and 50 hours. A resolution authorizing him to do the searches will be prepared. He will be establishing a Criteria Development Process through interviews with individual Council members. The search subcommittee of Michael Lattif and Pat Rouse was formed, with Jon Warmes as an alternate.

2. **INTERIM ADMINISTRATOR'S REPORT**

Mr. Fehrenbach reported he had met with the Department Heads about the preparation and submission of their requests for the 2010 budget. He advised them that they would be held responsible for any transfers that are needed. 'Hold the line' was the direction he gave them. He advised the Council that fixed costs – legacy costs – comprise 40% of the budget.

3. **CORRESPONDENCE**

A. Greek Orthodox Cathedral Re: Request for temporary use of Parking lot and temporary signage

Clerk will write requesting additional information regarding proposed location, interim parking plans while trees being sold, and specific signage request.

B. Lubavitch on the Palisades Re: Invitation/Menorah Lighting

C. Verizon Re: Pay phone discontinuation
Okay to remove; check for location of phones.

D. BC Mun JIF Re: 2009 Dividend option
Council agreed to apply 2009 dividend to first quarter of 2010 premium.

E. Upreti/Howard Park Drive Re: Request for Waiver of Alarm Penalty
Council will deny at November 10 meeting.

F. Tenaflly Garden Club Re: Request/Wreath Sale Banner
Council will approve temporary banner display at November 10 meeting.

4. **CLOSED SESSION - None**

5. **RESOLUTIONS for the meeting of November 10, 2009:**

- A. November expenditures
- B. Approve Refund/Knickerbocker Country Club/Non-Residential Development Fee moratorium
- C. Approve Release of Escrow/Soil Moving/40 Forest Road/\$6500.
- D. Approve Release of Escrow/Soil Moving/95 Newcomb Road/\$6500.
- E. Approve Refund/Tree Removal Escrow/62 Ridge Road/\$4720.
- F. Approve Refund/Tree Removal Escrow/54 Sunderland Road/\$7250.
- G. Approve Refund/Tree Removal Escrow/95 Newcomb Road/\$1520.
- H. Approve Refund/Tree Removal Escrow/298 Woodland Street/\$12,000.
- I. Approve Refund/Tree Removal Escrow/100 Hillside Avenue/\$600.

6. **PUBLIC HEARINGS for meeting of November 10, 2009:**

- A. Ordinances: Ord. No. 09-25/Amend Ord. No. 08-28/Correct Historic Designation
- B. Other: None

7. **COMMITTEE REPORTS**

Councilwoman LaMastra reported that the BID/DMC has met six to eight times, have been working on the bylaws and other associated administrative matters. The search committee is seeking a new member to succeed Robin Brown. She referred to Schedule A of Ordinance No. 08-25 that created the Business Improvement District and noted that the list of properties includes non-owner occupied non-commercial two-family houses. This will be looked at in greater detail in the new year and they will be submitting recommendations to the Council for revisions to Schedule A. Ms. LaMastra reported that each year, the Assessor will provide a list of commercially assessed properties to the BID for inclusion.

Councilman McDermott reported that the Fire Department was in need of a replacement for their large refrigerator to be paid for by the Borough. The Fire Association will not pay for it. It was suggested that Mr. McDermott advise them to submit it as a 2010 budget request.

Mr. McDermott advised he will not be present at the December 1 public meeting.

8. **MINUTES to be approved:** Special meeting of September 29, 2009
 Work session of October 20, 2009
 Closed session of October 20, 2009
 Public Meeting of October 27, 2009

9. **OLD BUSINESS**

- A. ~~*[from 11-17 COW]* Sign Ordinance draft to be revised by Borough Attorney and scheduled for introduction on January 13, 2008 (final review January 6 work session)~~
- B. ~~*[from 12-2 COW]* Proposal to abolish Standing Committees to be placed on January 20 work session for discussion [discussed Jan 6 instead].~~
- C. ~~*[from 12-2 COW]* Resolution renewing Geese Police agreement to be done in January.~~
- D. ~~*[from 1-6-09 COW]* Review of Engle Street bids on February 3 work session-Deferred on Feb. 3 to Feb. 17 work session~~

- E. ~~*[from 1-13 Public]*~~ Policies and Procedures Sub-Committee report due by March 13. See item L below
- F. ~~*[from 1-20 COW]*~~ Defined Contribution Retirement Program Ordinance review by Borough Attorney for February 17 work session
- G. ~~*[from 1-20 COW]*~~ Proposed Email Policy prepared by Borough Attorney and Administration Committee for March 3 work session; deferred to 3/17; deferred to 4/7 by Borough Attorney; deferred to April 23; discussed 4/23 but more revision needed and no new date set.
- H. ~~*[from 1-20 COW]*~~ Recognition of Police Department Awards, Oath to new Officer, recognition of TVAC and Fire Department elected officers at February 10 public meeting. ~~*[from 2-3 COW]*~~ Fire Dept recognition to be scheduled
- I. ~~*[from 1/29 agenda prep for 2/3 agenda JD deferred]*~~ Police Headquarters/review Financial Plan and Engineer's site review (1-20 COW) reviewed at May 19 work session.
- J. ~~*[from 2/3 COW]*~~ Building Numbers/Map-Revised Ordinance to be reviewed at March 3 work session.
- K. ~~*[from 2/10 public meeting]*~~ Consideration of Ordinance No. 09-02/Elimination of Standing Committees continued to March 24 public meeting, where it was deferred to the April 7 work session; subsequently deferred again at 4/28 and 5/12 meetings; scheduled for 5/26 action.
- L. ~~*[from 2/17 meeting]*~~ Sub-Committee on Protocol and Procedures Review will report at March 17; deferred to April 7 meeting; deferred to April 23; at 4/23, Council was requested to review proposal and submit comments to Borough Clerk for 5/5 work session.
- M. ~~*[from 4/7 COW]*~~ Borough Administrator will have recommendations for structuring operations in lieu of Standing Committees May 19 work session.
- N. ~~*[from 6/4 COW]*~~ Borough Attorney and Borough Administrator to report on Police Headquarters *vis a vis* ROSI restriction
- O. ~~*[from 7/7 COW]*~~ Schedule discussion on 2010 budget review process for September 15 work session; at August 4 meeting, agreed to move up to September 1.
- P. ~~*(from 10/6 work session)*~~ Deferred following items to November 5 work session:
 - A. Decrease in revenues in Building Department/possible fee increases (deferred from 8/4 and 10/6 mtgs)
 - C. Council stance on Light Rail (from 9/15 mtg and 10/6)
 - D. Overnight Parking issue (from 9/15 mtg and 10/6)
 - E. Review Canvassing Ordinance (from 10/6)
 - F. Revision to Fire Department Ordinance and officer approval (from 9/15 mtg & 10/6)
 - G. Sign Ordinance revisions (WRM) (from 10/6)
 - L. Proposal for traffic engineering services/Riveredge Road & Tenafly Road
- Q. ~~*(from 10/20 COW)*~~ Deferred further discussion on email policy to second work session in November.

10. **FOR THE GOOD OF THE ORDER**

- A. Mayor to propose appointment to 2nd Alternate on HPC: Elizabeth Shanks

Mayor Rustin asked the Council to submit names of residents to be recognized at the Recess Meeting on January 2.

Mr. Feldman questioned whether the Budget Review Process Committee was still in effect. Mr. McDermott expressed that he would like to see it continue, stating further that savings on positions should be implemented early in the budget year to get a greater benefit, and not have structural cost decisions made in March or April or later. There was no further discussion.

Mr. Fehrenbach requested a legal opinion from the Borough Attorney on whether the District Management Corporation of the BID falls under the Open Public Meetings Act, the Open Public Records Act, and the Local Ethics Law *vis a vis* Financial Disclosure Statements. The Attorney commented that the DMC should follow the regulations in OPMA and OPRA because the funding comes from the public sector; he will look into the question of Financial Disclosure and Pay-to-Play and report back.

11. **ADJOURNMENT**

As there was no further business to come before the Council, on a motion by Council member Rouse, second by Council member LaMastra, and unanimously carried, to adjourn this meeting. The meeting was adjourned at 10:45 p.m.

Respectfully submitted,

Nancy Hatten